REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 2, 10, 16, and 19 are currently being amended. This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 21-24 are allowed.

Claims 2-8, 10-14, 16-17, and 19-20 are objected to as being dependent upon a rejected base claim but are indicated allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant rewritten claims 2, 10, 16 and 19 in independent form including all of the limitations of their respective base claims. As such, Applicant respectfully submits these claims are allowable as suggested by the Examiner. Claims 3-8, 11-14, 17 and 20 depend either directly or indirectly from claims 2, 10, 16, or 19. As such, Applicant respectfully submits these claims are also allowable.

Claims 1, 9, 15 and 18 stand rejected under 35 U.S.C. §102(e) as being anticipated by Gupta. Applicant respectfully traverses this rejection.

With respect to the rejection of claims 1, 9, 15 and 18 based on 35 U.S.C. §102, the Examiner argues that col. 6, lines 14-23 and the abstract of Gupta teach "a method and an apparatus for efficient and reliable multicasting in a network environment and a sender transmits data packets to a plurality of receiver wherein periodically, receivers submit response that include control information regarding the loss (expected data not received data) or receipt of data packets transmitted by the sender and using these information a sender retransmits any undelivered packets to intended receivers." The Examiner further argues that "Gupta's retransmitting undelivered packets regarding the loss of data not received [is] similar to the claim language in which the application uses the expression 'retransmitting expected-but-not-received data'." However, what the Examiner misses is that the claim language of the subject application requires retransmitting *all of the not received data via a*

point-to-multipoint session. Gupta teaches sending only some of the not received data via a point-to-multipoint session and the rest of the not received data via point-to-point sessions.

As argued in response to the previous office actions, Gupta discloses a system for monitoring and adjusting the data transmission rate and receiver response rate in a multicasting computer network based on changes in the number of receivers in the network and/or the data-loss responses from the receivers. ***The sender only retransmits the most requested lost data in a multicast session*** and transmits data which failed to reach only a few receivers in a unicast session directly to each of these few receivers.

In contrast the subject application recites ***retransmitting all of the not received data via the point-to-multipoint session***. The subject application specifically recognizes the problems associated with systems such as the one disclosed in Gupta which retransmit only some of the not received data via the point-to-multipoint system. Paragraphs 22 and 23 of the subject application specifically recognize these problems and propose a solution. Specifically, the subject application recognizes that determining the most requested packets may be difficult or impossible. In addition, by retransmitting all of the not received data, it is possible that some of the receivers may receive lost data in the retransmission even before sending a request for the lost data thus reducing network traffic. As such, the subject application as claimed in claims 1, 9, 15, and 18 proposes a solution to some of the problems associated with the Gupta reference.

Nothing in the Gupta reference discloses or suggests retransmitting ***all of the not received data via a point-to-multipoint session*** as claimed in claims 1, 9, 15, and 18 of the subject application. In fact, Gupta discloses resending only ***some of*** the packets (*i.e.* most NACKed) via a point-to-multipoint session, while sending the rest via point-to-point sessions. This causes some of the problems specifically identified and solved by the subject application. As such, the applicant respectfully submits that for this reason alone the Gupta reference neither discloses or suggests the invention as claimed in claims 1, 9, 15, and 18 of the subject application. Therefore, the application requests the rejection of claim 1, 8, 15, and 18 be withdrawn.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1450. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1450. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1450.

Respectfully submitted,

Date February 22, 2007   By   /G. Peter Albert Jr./

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